

### REMARKS

Claims 15-16, 18-29 and 34-37 are pending in this application. Claims 15, 16 and 29 are independent.

The present invention provides a resin composition comprising ethylene-vinyl alcohol copolymer ("EVOH") (A), an additional thermoplastic resin (B), and a transition metal salt (C). The ethylene-vinyl alcohol copolymer (A) is contained in an amount of 70 to 99.9% by weight; the thermoplastic resin (B) is contained in an amount of 0.1 to 30% by weight; and the transition metal salt (C) is contained in a ratio of 1 to 5000 ppm. As a result of this combination, the resin composition has excellent gas barrier properties (i.e. low permeability) and excellent oxygen absorption properties (oxygen scavenging function). The oxygen absorption properties result from the presence of oxygen-reactive carbon-carbon double bonds in the thermoplastic resin (B). The transition metal salt (C) improves the oxygen scavenging function of the resin composition by facilitating the reaction of carbon-carbon double bonds with oxygen.

Claims 15-16, 18-29 and 34-37 are rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-17 of U.S. Patent No. 6,599,598 ("Tai-598"). In addition, Claims 15-16, 18-29 and 34-37 are rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-25 of U.S. Patent No. 6,759,107 ("Tai-107"). To obviate the rejections, a Terminal Disclaimer is attached.

Claims 15-16, 18-29 and 34-37 are rejected under 35 U.S.C. § 102(e) over Tai-598. In addition, Claims 15-16, 18-29 and 34-37 are rejected under 35 U.S.C. § 102(e) over Tai-107. The attached Declaration Under 37 C.F.R. 1.132 shows that to the extent that subject matter claimed in the above-identified application is also disclosed in Tai-598 and Tai-107, the present inventors, Shinji TAI, Hiroyuki SHIMO and Masakazu NAKAYA, are the co-inventors of the subject matter and are the only inventors of the subject matter. Because

these disclosures in Tai-598 and Tai-107 are not "by another", the rejections under 35 U.S.C. § 102(e) should be withdrawn.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance. Applicants respectfully request favorable consideration and prompt allowance of the application.

Should the Examiner believe that anything further is necessary in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

Respectfully submitted,

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Attached:

Terminal Disclaimer over U.S. Patent Nos. 6,599,598 and 6,759,107  
Declaration Under 37 C.F.R. § 1.132

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